

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	8:97CR94
	)	
Plaintiff,	)	
	)	
vs.	)	<b>ORDER</b>
	)	
CHARLES K. MAYHEW,	)	
	)	
Defendant.	)	

This matter came on for hearing on this 19<sup>th</sup> day of April, 2007. The government is represented by Assistant U.S. Attorney Bruce Gillan. The court finds that the defendant was not properly notified of this hearing. Therefore, the court asks the government to state its position concerning the defendant's motion to return evidence (Filing No. 990).

The government advised the court that it believes the defendant's request for return of property is untimely pursuant to FED. R. CRIM. P. 41(g) and 28 U.S.C. § 2401(a). The government also cites the court to the case of *United States v. Machado*, 465 F.3d 1301 (11<sup>th</sup> Cir. 2006), in which the court discusses the interplay between Rule 41(g) and 28 U.S.C. § 2401(a).

The court orders that Mr. Mayhew receive a copy of FED. R. CRIM. P. 41(g) and 28 U.S.C. § 2401(a).

IT IS, THEREFORE, ORDERED that a copy of FED. R. CRIM. P. 41(g) and 28 U.S.C. § 2401(a) be forwarded to the defendant at his last known address at the Bureau of Prisons. The defendant is given sixty days in order to show cause why his motion should not be dismissed as untimely and outside the statutory period of limitations.

DATED this 20<sup>th</sup> day of April, 2007.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief U.S. District Court Judge